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03/30/01  
jc962 U.S. PTO

**PATENT  
RULE 53(b)(1)  
APPLICATION FILING**

jc997 U.S. PTO  
09/823013  
03/30/01

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Rule 53(b)(1)  
Continuation Application of Pending  
Application Serial Number 09/260,855

Anticipated Class: 426  
Anticipated Group: 1761  
Anticipated Examiner: Carolyn Paden

March 30, 2001

BOX PATENT APPLICATION  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

This is a request under 37 CFR 1.53(b) (1) (and with reference to 37 CFR 1.78) for filing a continuing application of pending Application Serial No. 09/260,855 of Euan ARMSTRONG filed on March 1, 1999 and entitled, as filed,

**CHOCOLATE CRUMB.**

X 1. Enclosed is a copy of the specification, claims and abstract and Declaration, and Power of Attorney and Petition filed in pending Application Serial No. 09/260,855.

X 2. AMENDMENT: For purposes of classification and calculation of the filing fee, prior to calculation of the filing fee for and for classification of this application, please cancel claim 19.

X 3. In view of the Amendment requested above, the filing fee is based solely on claims 1 - 18 and is calculated as follows:

# CLAIMS FILED IN THE APPLICATION AS AMENDED ABOVE

For	Number Filed	Number Extra	x	Rate	Fees
Basic Fee.....					\$710.00
Independent Claims..... 1-3		0	x	78.00 =	0.00
Total Claims ..... 18-20		0	x	\$18.00 =	0.00
Multiple Dependent Claims...				260.00 =	_____
Total Filing Fee.....					\$710.00 =====

- X 4. A check in the amount of \$710 is enclosed.
- X 5. The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 22-0480, and in accordance with Deposit Account procedure, this request is enclosed in triplicate.
- X 6. The prior application and this application are assigned to Nestec S.A. by reason of an Assignment which is recorded at Reel 9803, Frame 0942.
- X 7. Benefit is claimed under 35 U.S.C. §120 of Application Serial No. 09/260,855 filed on March 1, 1999.
- X 8. Priority is claimed under 35 U.S.C. §119 based upon Great Britain Patent Application No. 9804401.9 which was filed March 2, 1998 in The Patent Office of the United Kingdom (Great Britain).
- X 9. A certified copy of the Great Britain priority application has been filed in Application Serial No. 09/260,855.

X 10. The power of attorney in the prior application is to William H. Vogt III, Reg. No. 19,439, *et al.*

X a. The power appears in the papers in prior Application Serial No. 09/260,855.

X b. A copy of the power in the prior application is set forth in the copy of the Declaration and Power of Attorney submitted herewith.

X 11. Address all further communications to:

William H. Vogt III  
Vogt & O'Donnell, LLP  
707 Westchester Avenue  
White Plains, NY 10604  
Telephone: (914) 328-0055  
Facsimile: (914) 328-0060

X 12. I hereby verify that the appended application papers identified in Item No. 1 above are true copies of papers filed in prior Application Serial No. 09/260,855 filed March 1, 1999.

If during the prosecution of the application there should occur any deficiency or omission of the payment of any fee due, including extension fees, claims fees, information disclosure statement fees, the issue fee or any other additional fee, please charge the amount of the deficiency or omission against our Deposit Account No. 22-0480, and in accord with deposit account practice, as indicated above, this request is submitted in triplicate.

Should any request for a petition for extension of time be necessary to take action in this application, request and petition for such extension is hereby made should such not otherwise be filed.


The undersigned declares further that all statements made on information and belief are believed to be true and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

The undersigned further hereby certifies that this transmittal letter filing request (in triplicate) and a check in the amount of \$710 which is annexed hereto are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on March 30, 2001 in an envelope bearing "Express Mail" Label No. EL257943824US and addressed to BOX PATENT APPLICATION, Assistant Commissioner for Patents, Washington, D.C. 20231.

Respectfully Submitted,

VOGT & O'DONNELL, LLP  
Attorneys of Record

By:

  
David R. Plautz  
Reg. No. 28,251

Address of Signator:

707 Westchester Avenue  
White Plains NY 10604  
Phone: (914) 328-0055  
Facsimile: (914) 328-0060

- \_\_\_ Inventor(s)
- \_\_\_ Assignee of complete interest
- X Attorney or agent of record
- \_\_\_ Filed under Rule 34(a)